



Entered on Docket  
May 04, 2006

A handwritten signature in black ink, appearing to read "R. Linda B. Riegle".

Hon. Linda B. Riegle  
United States Bankruptcy Judge

Annette W. Jarvis, Utah Bar No. 1649  
RAY QUINNEY & NEBEKER P.C.  
36 South State Street, Suite 1400  
P.O. Box 45385  
Salt Lake City, Utah 84145-0385  
Telephone: (801) 532-1500  
Facsimile: (801) 532-7543  
Email: [ajarvis@rqn.com](mailto:ajarvis@rqn.com)

and

Lenard E. Schwartzer  
Nevada Bar No. 0399  
Jeanette E. McPherson  
Nevada Bar No. 5423  
Schwartzer & McPherson Law Firm  
2850 South Jones Boulevard, Suite 1  
Las Vegas, Nevada 89146-5308  
Telephone: (702) 228-7590  
Facsimile: (702) 892-0122  
E-Mail: [bkfilings@s-mlaw.com](mailto:bkfilings@s-mlaw.com)

Attorneys for Debtors

## UNITED STATES BANKRUPTCY COURT

### DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

Case Nos. BK-S-06-10725 LBR  
Chapter 11

**AMENDED ORDER APPROVING  
DEBTOR'S EX PARTE APPLICATION  
FOR ORDER APPROVING  
EMPLOYMENT OF BMC GROUP, INC.  
AS THE CLAIMS AGENT FOR  
DEBTOR'S ESTATE**

Debtor.

Date: n/a  
Time: n/a

1       Upon the Ex Parte Application of the Debtor for an Order Approving Employment of  
2 BMC Group, Inc. as the Claims Agent for Debtor's Estate, and after due deliberation and  
3 sufficient cause appearing therefore,

4       **IT IS SO ORDERED** as follows:

5           1. The Debtor's Ex Parte Application is granted in its entirety;

6           2. The Service Agreement between Debtor and BMC Group, Inc. ("BMC") is approved  
7 and Debtor and BMC are authorized to take such action, make such payments and do such other  
8 things as may be necessary to implement and effectuate the terms of this order;

9           3. BMC, on a monthly basis, shall submit detailed invoices to the Debtor for the services  
10 rendered, with a copy to the United States Trustee;

11          4. BMC shall comply with the Guidelines by the Claims Agent adopted by this Court  
12 which are attached hereto as **Exhibit "A"**;

13          5. The fees and expenses of BMC incurred in the performance of the services described  
14 herein and in the Service Agreement shall be treated as an administrative expense of the Debtor's  
15 Chapter 11 estate and shall be paid by the Debtor in the ordinary course of business; and

16          6. Service of this Order shall be made by the Clerk and limited to Debtor's counsel,  
17 counsel for the Creditors' Committee, the United States Trustee, and all parties in interest that

18       ///

19       ///

20       ///

21       ///

22       ///

23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

1 have filed notice of appearance or requests to receive notices and pleadings in the above-  
2 referenced case as the date of this Order.

3 Submitted by:

4 Annette W. Jarvis, Utah Bar No. 1649  
RAY QUINNEY & NEBEKER P.C.  
5 36 South State Street, Suite 1400  
P.O. Box 45385  
6 Salt Lake City, Utah 84145-0385

7 and

8

9   
10 Leonard E. Schwartz, Nevada Bar No. 0399  
Jeanette E. McPherson, Nevada Bar No. 5423  
11 SCHWARTZER & MCPHERSON LAW FIRM  
2850 South Jones Boulevard, Suite 1  
12 Las Vegas, Nevada 89146  
13 Attorneys for Debtor

###

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

# **EXHIBIT “A”**



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

GUIDELINES FOR A CLAIMS AGENT

Appointment of a Claims, Noticing and Balloting Agent (the "Claims Agent"):

A. Upon application and order, the services of a claims agent may be employed by the Debtor(s)' estate pursuant to 28 U.S.C. §156(c) to perform services for the court under the direction of the Clerk of Court to include among other things:

1. Serve as the Court's notice agent to mail notices to the estates' creditors and parties in interest.
2. Provide expertise, consultation and assistance in claim and ballot processing and with other administrative matters with respect to the Debtors' bankruptcy cases.
3. Provide expertise, consultation and assistance with the preparation of schedules, statements of financial affairs and master creditor lists, if necessary, and any amendments thereto.
4. Process, image and docket all proofs of claim filed in the debtor(s) case(s). All proofs of claim will be electronically docketed and images attached to such docket entries using the court's Case Management/Electronic Case Filing system (CM/ECF) to ensure that all claims received and filed in the debtor(s) case(s) are recorded and available for public reference. The claims agent will be assigned a CM/ECF Limited Use Registration after completing training provided by the Clerk in the electronic docketing of proofs of claim.

B. The second phase of claims processing is reconciliation of the claims to the debtor-provided creditor information. To ensure that the creditors are treated fairly, the claims agent handling the docketing of proofs of claim will be an independent party not providing legal or financial advice about the interpretation or settlement of the claims.

C. Since the bankruptcy clerk is responsible for the security and integrity of all of the bankruptcy court's records and dockets, including claims registers, mailing matrices, and other case papers maintained by the outside claims agents, the following guidelines are set forth to help assure the security of official information.

The outside claims agent shall:

1. Relieve the clerk's office of all noticing under any applicable bankruptcy rule and processing of claims.
2. At any time, upon request, satisfy the court that the outside claims agent has the capability to efficiently and effectively notice, image proofs of claim, docket in the court's CM/ECF system, and maintain the proofs of claim.
3. Prepare and serve required notices in the above captioned case(s), including but not limited to:
  - a. notice of all creditors of the filing of the bankruptcy petition and of the setting of the first meeting of creditors, pursuant to 11 U.S.C. Section 341(a), under the proper provision of the Bankruptcy Code;
  - b. notice of the claims bar date;
  - c. notices of objections to claim;
  - d. notices of any hearings on a disclosure statement and confirmation of a plan of reorganization; and
  - e. notice any other matters as required by the order retaining the Claims Agent.
4. Furnish a last date for the filing of a proof of claim and a form for filing a proof of claim to each creditor notified of the filing.
5. Maintain an up-to-date copy of debtor's schedules that list the creditors and the amounts owed.
6. Provide the creditor with the scheduled amount and classification - in jointly administered cases, the entity in which the creditor is scheduled should also be provided.
7. File with the clerk a certificate of service within 10 days, which includes a copy of the notice, a list of persons to whom it was mailed (in alphabetical order by last name or company name), and the date mailed.
8. Image the proofs of claim and all attachments in PDF format (not to exceed 3 MG in size per image), make the electronic docket entry into the court's CM/ECF docketing system of each proof of claim including the entry of the creditor's name and address, if necessary, and attach that image to the appropriate proof of claim

docket entry to enable the electronic viewing of the documents by court personnel, counsel, and the public.

9. Cause to be forwarded all proofs of claim and transfer of claims from the office of the clerk to the outside claims agent through a messenger service or postage paid envelopes.
10. Once imaged, maintain any hard copies of proofs of claim originally received in paper format for the life of the case, or until otherwise ordered by the court:
  - a. in correct claim number order;
  - b. in an environmentally secure area and protect the integrity of these original documents from theft and/or alteration.
11. Maintain an official claims register in CM/ECF by docketing all proofs of claim on a claims register including but not limited to, the following information:
  - a. the name and address of claimant and the agent, if agent filed proof of claim;
  - b. the date received;
  - c. the claim number assigned (CM/ECF assigns a claim number automatically; the assigned claim number is to be written on the hard copy of the claim in the lower right hand corner); and
  - d. the amount and classification asserted by such claimant.
12. Have the option to send at the discretion of the debtor or clerk, an acknowledgment letter to the creditor when its claim is processed.
13. Maintain a telephone staff to handle inquiries related to procedures about filing proofs of claim.
14. Record all transfers of claims pursuant to FRBP 3001(e):
  - a. by electronically filing and docketing all transfers of claim in the court's CM/ECF docketing system;
  - b. provide notice of the transfer as required by FRBP 3001(e) and electronically file and docket the notice of transfer;

18. Provide notices, at the expense of the Debtor(s) estate, to any entities, not limited to creditors, that the debtor or the court deems necessary for an orderly administration of the above captioned bankruptcy case(s).
19. At the close of the case, box and ship all original documents in proper format, as provided by the clerk's office, to the office address of the Clerk of the Bankruptcy Court.
20. Insure that no notices or forms are sent on behalf of the debtor without prior approval of the clerk.
21. Be responsible for regular contact with the debtor's counsel to insure any changes in the claims that appear on the docket, *i.e.*, withdrawals, transfers, etc. be transmitted to the claims agent for electronic recordation on the claims register and the case docket, as appropriate.

D. In the exercise of any authority granted by these guidelines, the outside claims agent shall comply with all applicable provisions of Title 11 of the U.S. Code the Federal Rules of Bankruptcy Procedure and any other applicable bankruptcy and non-bankruptcy laws or regulations of other appropriate governmental agencies.

E. The outside claims agent shall promptly comply with such further conditions and requirements as the clerk may hereafter prescribe.

F. The outside claims agent is not employed by the federal government or U.S. Bankruptcy Court. Any appointed outside claims agent, is not an official representative of the United States and is not acting on behalf of the United States. Any appointed claims agent shall not misrepresent its authority to any person, entity or government agency.